

UNITED STATES DISTRICT COURT
for
EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION

U.S.A. vs. James Henry Smith, Jr.

Docket No. 4:08-CR-59-1BR

Petition for Action on Supervised Release

COMES NOW Tuell Waters, probation officer of the court, presenting a petition for modification of the Judgment and Commitment Order of James Henry Smith, Jr., who, upon an earlier plea of guilty to Possession With the Intent to Distribute More Than 5 Grams of Cocaine Base (Crack), in violation of 21 U.S.C. § 841(a)(1) and Possession of a Firearm in Furtherance of a Drug Trafficking Crime, in violation of 18 U.S.C. § 924(c)(1)(A), was sentenced by the Honorable W. Earl Britt, Senior U.S. District Judge, on August 3, 2009, to the custody of the Bureau of Prisons for a term of 84 months. On April 2, 2012, the term of imprisonment was reduced to 77 months pursuant to the Retroactive Application of the Sentencing Guidelines. It was further ordered that upon release from imprisonment the defendant be placed on supervised release for 5 years under the standard conditions adopted by the court and the following additional conditions:

1. The defendant shall consent to a warrantless search by a United States Probation Officer or, at the request of the probation officer, any other law enforcement officer, of the defendant's person and premises, including any vehicle, to determine compliance with the conditions of this judgment.
2. The defendant shall cooperate in the collection of DNA as directed by the probation officer.

James Henry Smith, Jr. was released from custody on January 11, 2013, at which time the term of supervised release commenced.

RESPECTFULLY PRESENTING PETITION FOR ACTION OF COURT FOR CAUSE AS FOLLOWS:

On June 4, 2013, the defendant provided a urine specimen which yielded a positive result for cocaine on an instant test. Smith denied any use of cocaine; therefore the urine specimen was sent to Alere Toxicology Services, Inc., where it was confirmed to be positive. Once confronted with the laboratory results, Smith readily acknowledged he ingested an ecstasy pill which he says was comprised, in part, of cocaine. The defendant accepted responsibility for his actions and maintains this is an isolated incident. Therefore, it is respectfully recommended that the conditions of the defendant's supervision be modified by adding the drug aftercare condition and participation in a cognitive behavioral program as recommended by the probation officer. The defendant signed a Waiver of Hearing agreeing to the proposed modification of supervision.

PRAYING THAT THE COURT WILL ORDER that supervised release be modified as follows:

1. The defendant shall participate as directed in a program approved by the probation office for the treatment of narcotic addiction, drug dependency, or alcohol dependency which will include urinalysis testing or other drug detection measures and may require residence or participation in a residential treatment facility.
2. The defendant shall participate in a cognitive behavioral program as directed by the probation office.

Except as herein modified, the judgment shall remain in full force and effect.

Reviewed and approved,

I declare under penalty of perjury that the foregoing is true and correct.

/s/ Dwayne K. Benfield
Dwayne K. Benfield
Supervising U.S. Probation Officer

/s/ Tuell Waters
Tuell Waters
U.S. Probation Officer
201 South Evans Street, Room 214
Greenville, NC 27858-1137
Phone: 252-758-7200
Executed On: June 28, 2013

ORDER OF COURT

Considered and ordered this 8 day of July, 2013, and ordered filed and made a part of the records in the above case.

W. Earl Britt
Senior U.S. District Judge

